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OFFICE OF PETITIONS

In re Patent No. 7,275,059 :
Issue Date: September 25, 2007 :
Application No. 10/691,134 : **DECISION GRANTING PETITIONS**
Filed: October 21, 2003 :
Attorney Docket No. SJO919970205US4 :

This is a decision on the petition filed September 14, 2011, requesting under 37 CFR 1.182 that the acceptance of the terminal disclaimer filed February 27, 2007, be withdrawn. This is also a decision on the petition under 37 CFR 1.182, filed September 26, 2011, for expedite processing of the present petition.

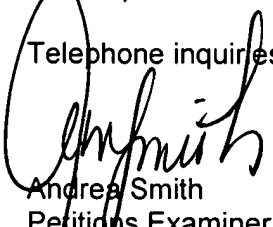
The petition for expedited handling under 1.182 is **granted**.

The petition under 1.182, filed on September 14, 2011, is **granted** to the extent indicated.

Petitioner states that the Terminal Disclaimer submitted on February 27, 2007, should be withdrawn since the numbers in the patent being disclaimed were inadvertently transposed. Unfortunately, there was no transposition of the numbers, rather, an incorrect number was given.

The USPTO will not grant a request to withdraw or amend a recorded terminal disclaimer in an issued patent on the grounds that the rules of practice and 35 USC 253 do not include a mechanism for withdrawal or amendment of such a terminal disclaimer. See MPEP 1490; Bayer AG v. Carlsbad Technology Inc., 298 F.3d 1377, 64 USPQ2d 1045, 1048-49 (CAFC 2002). As such, the original terminal disclaimer unfortunately cannot be "removed" as petitioner requests. Nevertheless, as a newly filed, corrective Terminal Disclaimer is regular in form and is accompanied by the requisite fee, it is accepted, placed in this file, and thus has been recorded against the instant patent.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (571) 272-3226.


Andrea Smith
Petitions Examiner
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David Buccia
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